

A Reply to Wexler: Libertarianism and Decency

by Walter Block

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Wexler's² vision of libertarianism is a hellish one indeed. Were it a correct rendition of this philosophy, I would join with him in not embracing it either. Perhaps he has attained his interpretation from reading only my article on blackmail³ and from no other source. In my own defense, I was there concerned not with articulating libertarianism, but merely with applying it to the issue of blackmail⁴. Let us clear up a few of his misconceptions, and perhaps thereby assure him that this perspective is not a diabolical one⁵.

1. Atomistic fallacy. Wexler characterizes as "anathema" law constructed on the vision that each person is "an island"⁶ living in splendid isolation from all others. Apart from hermits' rights, that is not at all the essence of libertarianism. Societies, voluntary associations, churches, clubs, or any other consensual interactions are the order of the day for this philosophy. Markets are also instances of togetherness⁷. What advocates of this philosophy oppose, however, are some people forcing their will on others, in a totalitarian manner, in the name of "society."

2. Profit. Yes, libertarians advocate allowing businessmen to "profit from someone else's extreme need ..."⁸ This sounds horrible. But profit is a far better motivator than political or

¹ I wish to thank Hannah Block for her editorial work on this article.

² Wexler, Steve, "My Enemy's Enemy, But Not My Friend," U.B.C. L. Rev., Vol. 33, No. 2, 2000, [pages].

³ Block, Walter, "Blackmail is Private Justice," U.B.C. L. Rev., Vol. 33, No. 2, 2000, [pages].

⁴ For better explications of libertarianism see Rothbard, Murray N., For a New Liberty, Macmillan, New York, 1973; Rothbard, Murray N., The Ethics of Liberty, New York: New York University Press, 1998[1982]; Nozick, Robert, Anarchy, State and Utopia, New York: Basic Books, 1974.

⁵ Seldom in the annals of scholarly discourse has an author actually admitted to irrationality, indeed, reveled in it. And yet Wexler's (2000) footnotes 4 and 14 hardly admit of any other interpretation. A similar analysis applies to his view that legal theory can never consistently explain the law. If he sticks to his guns in this regard, he will not even read what I say, let alone be convinced by it. However, I don't for a moment believe Wexler's protestations of irrationality. His brilliant writing style, his ability to see the fallacies of the "economic approach," not to mention his appreciation of Block (2000) in this regard, his keen understanding of Mill, render this stance, in my view, as mere playacting.

⁶Supra note 1 at [page]

⁷ Nozick, op. cit. p. 163, calls them "capitalist acts between consenting adults."

⁸ Supranote 1 at [page]

bureaucratic institutions. The more extreme the need, the greater the profit, and the more alacrity with which firms will satisfy that need. It is no accident that the poor in countries which rely on monetary incentives to provide goods and services do far better than those in nations where private profit is regulated, or prohibited outright. If you want a vision of hell, go to public housing projects in the U.S. where profits have been banned, or go to North Korea.

3. Duty. Libertarianism does not at all wish to “minimize the duties that people have,” let alone is this its “sole goal.” Very much to the contrary, the tenets of this philosophy are adamant that people have all sorts of duties: to refrain from murder, rape, theft, fraud, assault, kidnaping, car jacking, the list goes on and on. We all have the negative right not to be molested in any way in our persons or property, and everyone has a correlative duty to respect this. As for so-called positive rights, e.g. the “right” to food, clothing or shelter to be taken from others at the point of a governmental gun, there are no such things. This is merely a prettified veneer for theft.

4. Direction of danger. Contrary to Wexler, libertarians see dangers to liberty emanating from two directions, both a paternalistic one of protecting man from himself (e.g. forced seat belts, helmets, social security, worker’s compensation, unemployment insurance, laws against drugs and tobacco, etc.), and also from others, coercing good Samaritanism (e.g. welfare, equalization grants to poor provinces, etc.) As for the first, if people are smart enough to vote, they ought not be treated like children and told to save for their retirement, or how to dress for bicycle riding. Regarding the second, welfare is no way to “help others”.¹⁰ Rather, as the experience of eviscerating the initiative of Indians on reservations, of poor people on welfare, or third world countries through foreign “aid,” these programs are all counterproductive.” It is not only paternalistic, it is condescending. What the poor need to lift themselves up by their bootstraps is not a handout, but freedom. Witness the economies of the five “tigers” of the far east in the last several decades, and compare them with those of Africa or South America.

5. Labour. The libertarian theory of how rights to property arise is based, roughly, on Lockean¹² homesteading theory. Here, just titles are gained by mixing one’s labour with virgin land. So labour, far from “not [being] a prominent feature of libertarianism,”¹³ is at its very core.

¹⁰Supra note 1 at [page]

“Supra note 1 at [page]

¹¹ Murray, Charles, Losing Ground: American Social Policy from 1950 to 1980, New York: Basic Books, 1984; Bauer, Peter T. and Basil S. Yamey., The Economics of Underdeveloped Countries, The University of Chicago Press, Chicago, Ill., 1957; Bauer, Peter T., Equality, the Third World, and Economic Delusion, Cambridge: Harvard University Press, 1981

¹² Locke, John, An Essay Concerning the True Origin, Extent and End of Civil Government, V. 27-28, in Two Treatises of Government, P. Laslett, ed., Cambridge: Cambridge University Press, 1960; Locke, John, Second Treatise of Civil Government, Chicago: Henry Regnery, 1955

¹³Supra note 1 at [page]

Trade, too, includes the swap of labour for a wage. As for being a “wage slave,”¹⁴ this is a veritable contradiction in terms. Working as an employee is a voluntary act, even if you need a job in order to live¹⁵; in very sharp contrast, slavery is a coercive state of affairs. Anyone who does not appreciate this distinction ought to take a time trip back to Alabama about two hundred years ago.

6. Privilege. Contrary to Wexler, libertarianism defends the “poor and powerless”¹⁶ against those who would undermine their chances for happiness. Henry Ford, Bill Gates and Ray Croc have done more for the poor than any one million politicians, bureaucrats and social workers. Yes, they are wealthy, but they earned every penny of their money, and in so doing immeasurably enriched the lives of the poor and middle class. In contrast, tin pot dictators the world over with their hidden Swiss bank accounts are highly affluent, but their money comes at the expense of the poor.

7. Inheritance. In attacking bequests, Wexler is actually denigrating the labour he thinks he is championing. Most people work hard to make a better life for their kids. Take that away from them, and you make labour that much less satisfying. And what of inherited wealth in the form of intangibles such as love and learning? The only way to preclude these intergenerational transfers is to break up the family. Inheritance is just one kind of gift, and people have a right to give their property to those they wish. To disallow this is to commit theft.

8. Starve. The only way that “those who grew the wheat and baked the bread starve”¹⁷ is when someone, invariably government, takes it from them by coercive means. The most massive historical case in point was the forced starvation of the grain growing kulaks by Stalin¹⁸. Does Wexler think libertarians support Soviet communism?

¹⁴Supra note 1 at [page]

¹⁵ That is hardly the fault of the employer. He is the benefactor of the worker, not his exploiter as the Marxists would have it. For a vaccination against the labor theory of value, see Bohm-Bawerk, Eugen, Capital and Interest, South Holland, IL: Libertarian Press, George D. Hunke and Hans F. Sennholz, trans., 1959 (1884); see particularly Part I, Chapter XII, “Exploitation Theory of Socialism-Communism.”

¹⁶Supra note 1 at [page]

¹⁷Supra note 1 at [page]

¹⁸ Courtois, Stephane, Nicolas Werth, Jean-Louis Panne, Andrzej Paczkowski, Karel Bartosek and Jean Louis Margolin, The Black Book of Communism: Crimes, Terror, Repression, trans. from French by Murphy, Jonathan and Mark Kramer, Cambridge, MA: Harvard University Press, 1999; R. J. Rummel, Death By Government, New Brunswick, NJ: Transaction, 1996; Conquest, Robert(1990) The Great Terror, Edmonton, Alberta: Edmonton University Press; Conquest, Robert (1986), The Harvest of Sorrow, N.Y.: Oxford University Press

9. Social need. There is no such thing as “social need.”” This is simply a way to disguise stealing when done by government. Nor does majority rule justify any such act. Hitler came to power through a democratic system. No one would be rash enough to absolve his acts on that ground.

10. Devil. Libertarians, in their opposition to the forced transfer of funds by government, do not at all advocate that the “devil take the hindmost.”²⁰ On the contrary, theft, even when done in the name of majorities by government, is the devilish act. It does not have good effects. In contrast, libertarians advocate free enterprise, the last best hope for the poor of the world, and voluntary charity.

11. Hell. According to Wexler, “Libertarianism even suggests you can push people into hell, so long as you are not interfering with their ‘rights.’”²¹ He is correct. I fall in love with a lady. She spurns me. I am in hell unless I can possess her. Yet, she has every right²² to choose another. Surely Wexler would agree I have no right to override her choice in the matter. In hell I must stay.

Conclusion. Libertarianism is not the bogeyman depicted by Wexler. A bit of reading in this subject ought to convince him of this. I hope and trust his native rationality will lead him in that direction.

¹⁹ Supra note 1 at [page]

²⁰ Supra note 1 at [page]

²¹ Supra note 1 at [page]. Why the quotation marks around “rights”? Surely Wexler agrees with the libertarian rights not to be murdered, raped, enslaved, assaulted, robbed?

²² No quotation marks